



Consumer Federation of America

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Dkt 97-231

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The Honorable William Kennard
Chairman, Federal Communications Commission
1919 M Street NW
Washington, DC 20554

Dear Chairman Kennard:

On behalf of Consumers Union¹ and the Consumer Federation of America², we are writing to ask the Commission to initiate regulatory action that will reduce AT&T's basic rates for weekday calling between 5 and 7 p.m., and 11 p.m. to 8 a.m., to the levels AT&T announced on June 30, 1997. Since the Commission began relaxing regulation of AT&T -- starting with "price cap" regulation and ending with declaring AT&T "nondominant" -- basic long distance ratepayers have suffered from rate increase after rate increase, and now an effort to undo rate reductions that resulted from a regulatory decision. Enough is enough.

Clearly, this chain of events demonstrates that the Commission has gone too far in deregulating the long distance market. Consumers who rely on the previously regulated basic long distance schedule have not received the fruits of long distance competition. In just the past three years, most long distance companies have followed AT&T's lead, with AT&T increasing rates about 8% in January 1994, 4% in December 1994, 4% in February 1996 and 6% last Thanksgiving. Unfortunately, the Commission abandoned the regulatory tools that would have enabled it to challenge these rate hikes as not "just and reasonable."

Then, as part of the Access Reform Rulemaking, on June 30, 1997 AT&T announced in a press release: "...that basic rates for domestic long distance calls will drop 5 percent during daytime and evening hours and 15 percent during night/weekend hours. This action comes as a result of a recent FCC order calling for reductions in the access fees long distance companies must pay to the monopoly local telephone companies." In describing the Access Reform decision, then Chairman Reed Hundt stated publicly that these rate reductions were enforceable, and he highlighted the importance of bringing rate relief through regulatory action to the portion of the market that has not experienced rate reductions from competitive forces.

¹ Consumers Union is a nonprofit membership organization chartered in 1936 under the laws of the State of New York to provide consumers with information, education and counsel about good, services, health, and personal finance; and to initiate and cooperate with individual and group efforts to maintain and enhance the quality of life for consumers. Consumers Union's income is solely derived from the sale of *Consumer Reports*, its other publications and from noncommercial contributions, grants and fees. In addition to reports on consumers Union's own product testing, *Consumer Reports* with approximately 4.5 million paid circulation, regularly, carries articles on health, product safety, marketplace economics and legislative, judicial and regulatory actions which affect consumer welfare. Consumers Union's publications carry no advertising and receive no commercial support.

² Consumer Federation of America is a non-profit consumer advocacy organization representing more than 250 local, state and national consumer groups with a combined membership of more than 50 million Americans.

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Now, in a November 3, 1997 rate filing, AT&T has raised average basic rates for about 46% of weekday calling time. Consumers who make calls between 7 and 8 a.m. are paying as much as 100% more, because rates rose from an average of 13 cents per minute to 28 cents per minute. Between 5 and 7 p.m. rates rose from an average of about 17 cents per minute to 28 cents per minute, a 65% increase. And from 11 p.m. to 7 a.m., rates are up 31%, from an average of 13 cents per minute to 16 cents per minute. Given the history of inadequate competitive forces to discipline this portion of the market, we expect other long distance carriers to follow AT&T's lead.

In a November 17, 1997 letter to Richard Metzger, Chief of the Common Carrier Bureau, AT&T admits that it has raised rates as we describe above, indicates that this involves a price increase for 16% "of minutes rated using the basic schedule," but claims these rate hikes yield "the same aggregate reduction resulting from the July '5/5/15' filing."

Whether or not these claims are true, AT&T's November 3rd tariff revisions are contrary to the specific rate reductions that AT&T acknowledged (see attached May 3, 1997 letter to Chairman Hundt) resulted from the Commission's Access Reform Rulemaking. Because a specific group of basic schedule consumers is harmed by the portion of these tariff revisions that raised prices, Consumers Union and CFA believe these rate hikes are not just and reasonable and should be rejected by the Commission.

In addition, we are concerned that lax regulatory oversight has enabled AT&T to shortchange consumers in aggregate. According an October 21, 1997 to Merrill Lynch Bulletin:

We estimate AT&T received a total annualized access cut of \$800M on July 1. About \$400M was passed through to business customers in rate cuts beginning last December (in anticipation of the July 1 order). AT&T had assured the FCC that the remaining \$400M would be passed through to consumers in the form of basic rate reductions. However, we estimate that only \$65M (annualized to \$250M) was passed on to consumers in 3Q. The result was higher consumer prices and AT&T profits which we expect will continue into both 4Q and '98.

CU and CFA, therefore, ask the FCC to investigate whether, as Merrill Lynch claims, consumers are not receiving the price reductions they were promised.

We fear, that the Commission's excessive deregulation of the long distance market makes it difficult, for the FCC to enforce the specific provisions of May 3rd and the June 30, 1997 AT&T rate reduction commitment. We are hopeful that the Commission will use its authority under Section 205 of the Communications Act and the Access Reform Rulemaking to bring AT&T's basic rates back down to a just and reasonable level, as promised by former Chairman Hundt and as required by law. Anything less would be unfair to consumers.

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And we hope that the recent history of basic rate increases will convince the Commission to abandon an excessively deregulatory program that disregards pockets of market power harmful to consumers.

 Sincerely,

Gene Kimmelman
Co-Director, Washington Office
Consumers Union



Dr. Mark Cooper
Research Director
Consumer Federation of America

cc: Commissioner Susan Ness
Commissioner Gloria Tristani
Commissioner Michael Powell
Commissioner Harold Furchtgott-Roth
Mr. Richard Metzger, Common Carrier Bureau Chief



Gerald M. Lowrie
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May 3, 1997

The Honorable Reed E. Hundt
FCC
1919 M Street, NW
Room 814
Washington, D.C. 20554

Dear Chairman Hundt:

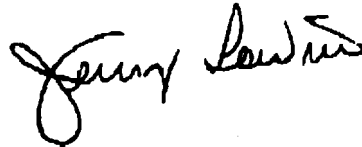
This letter is intended to further articulate AT&T's commitment to flow through access reductions. AT&T will flow through all access savings it receives as a result of the actions that the Commission takes in its Access Reform Rulemaking and related proceedings¹ proportionately to consumer and business services. In the event that net switched access reductions to the interexchange industry equal at least \$1.7 billion effective July 1, 1997, AT&T also will make the following commitments:

1. AT&T's access flow through will include reductions to AT&T's consumer basic schedule prices of 5 percent to the day schedule, 5 percent to the evening schedule and 15 percent to the night/weekend schedule effective with the date of such access reductions.
2. AT&T will flow through any further access savings resulting from these access reform related proceedings to its basic schedule consumer prices in the proportion attributable to its basic consumer call volumes effective with the date of such access reductions.
3. Under the current universal service system AT&T and other interexchange carriers today make a universal service contribution that is calculated as a monthly flat charge per presubscribed access line. This charge today ranges between 50 and 60 cents per line, per month. AT&T and other interexchange carriers do not reflect this charge as a specific line item on any residential customer's bill. Rather, this universal service contribution is recovered through other charges for interstate service, including the per-minute charges for interstate long distance calls. The Commission reportedly is considering

¹ Access charge related decisions adopted during May 1997.

reforms to the existing universal service programs that would modify the above-described practices. The Commission also reportedly is considering reforms to the interstate access charge rules that may include the assessment of flat charges per line, per month, to interexchange carriers. As long as such flat charges are not in excess of the above-referenced current flat charges, AT&T commits that it will not reflect any such flat charges as specific line items or other flat charges on any interstate basic schedule residential customer's bill at least until July 1, 1998. For the six month period thereafter, AT&T makes the same commitment, provided, however, that it has not incurred prior to July 1, 1998, a significant and material loss of revenue from its basic schedule residential customers to dial around services. In the event that AT&T has reason to believe that such a loss has occurred, AT&T shall inform the Commission in writing not later than May 1, 1998. If such loss occurs after May 1, 1998 AT&T shall inform the Commission in writing sixty days prior to taking such action.

Sincerely,



Copy to: The Honorable James H Quello
 The Honorable Susan Ness
 The Honorable Rachelle B. Chong
 Ms. Regina M. Keeney